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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION TWO

THE PEOPLE,

Plaintiff and Respondent,

v.

JOSEPH LITTLE,

Defendant and Appellant.

B202364

(Los Angeles County
Super. Ct. No. BA240330)

APPEAL from a judgment of the Superior Court of Los Angeles County.
Lance A. Ito, Judge. Affirmed.

Christopher Darden, under appointment by the Court of Appeal, for Defendant and Appellant.

Edmund G. Brown, Jr., Attorney General, Pamela C. Hamanaka, Assistant Attorney General, Paul M. Roadarmel, Jr. and David A. Voet, Deputy Attorneys General, for Plaintiff and Respondent.

Appellant Joseph Little appeals from a judgment entered after a court trial in which the trial court found him guilty of seven counts of identity theft (counts 2, 4, 6, 13, 18, 20, and 28) in violation of Penal Code section 530.5, subdivision (a);¹ and six counts of grand theft of personal property (counts 3, 5, 12, 17, 19, and 27) in violation of section 487, subdivision (a). Appellant was acquitted of one count of conspiracy to commit grand theft in violation of section 182, subdivision (a)(1), three counts of identity theft in violation of section 530.5, subdivision (a), and one count of grand theft of personal property in violation of section 487, subdivision (a). The trial court found true that appellant committed two or more related felonies that involved taking more than \$500,000. (§ 186.11, subd. (a)(2).) The trial court found not true that appellant took property in the commission of a felony resulting in a loss exceeding \$2.5 million. (§ 12022.6, subd. (a)(4).)

The trial court sentenced appellant to five years in state prison as follows: the midterm of two years as to count 17 plus three years to be served consecutively pursuant to section 186.11. The trial court imposed concurrent sentences on counts 2 through 6, 12, 13, 18 through 20, 27, and 28.

Appellant contends that his conviction must be reversed because there was insufficient evidence to sustain his convictions and that there was no evidence corroborating the testimony of his accomplices connecting him to the crimes. We disagree. The record contains witness testimony and extensive documentation in the form of escrow instructions and mortgage loan files supporting the trial court's findings. We affirm the judgment.

FACTS AND PROCEDURAL BACKGROUND

Viewing the whole record in the light most favorable to the judgment below as we must (*People v. Ceja* (1993) 4 Cal.4th 1134, 1138-1139), the evidence established the

¹ All further statutory references are to the Penal Code unless otherwise indicated.

following. Appellant created “straw buyers” by stealing identities and passing the information on to his accomplices in order to conduct fraudulent real estate transactions. Appellant and his accomplices used false addresses, phone numbers, and employment histories on the loan applications. Fake offices were set up with phone lines for the purpose of employment verification. Appellant and his accomplices then received loan proceeds from institutional lenders. Often, the transactions contained an escrow within an escrow, so that “the straw buyer” purchased the property for a sum less than the loan proceeds received from the bank.

Betty Bernhisel (Bernhisel), who was a loan processor and loan underwriter, worked with James Jeknavorian (Jeknavorian) who bought earthquake damaged houses using the good credit of “straw buyers” to qualify for the loan. Bernhisel met appellant through Jeknavorian. Bernhisel worked with appellant from 1997 through 2002 acquiring loans through the use of “straw buyers” who had nothing to do with the transaction. Appellant brought her falsified loan applications or gave her information including social security numbers, addresses, names of employers, counterfeit pay stubs, W-2 forms, and bank statements so that she could prepare loan applications. Appellant falsified asset and income information on the applications to make it appear that the borrower could qualify for a large loan. Bernhisel used eight different aliases imprinted on notary stamps and fraudulent information for between 100 and 200 loan transactions between 1996 to 2001. Bernhisel testified that appellant bought 12 houses using straw buyers. Two other persons used by Jeknavorian as investors bought 10 and 12 houses, respectively.

Appellant’s other accomplices included John Burnett (Burnett) who helped process loan applications, Birdie McClain (McClain) who gave appellant information on “straw buyers,” Penjalee Kennedy (Kennedy) who laundered money, and Kajuan Moore (Moore—also known as Tamara Kennedy (Tamara)), who opened dummy escrow accounts for the fraudulent loan transactions.

Los Angeles Police Department Detective Nickolas Spathopoulos, who worked in the real estate fraud division, uncovered the fraud when he started investigating a complaint made by Catrice Monson (Monson), the niece of Dennis Clay (Clay), regarding a real estate fraud perpetrated on Clay. During the course of his investigation, Detective Spathopoulos uncovered crimes connected with at least 11 properties. He executed search warrants on Valleywide Escrow, Ideal Property Management, Starr Realty and Property Management, and investigated On Call Escrow. On December 12, 2000, Detective Spathopoulos arrested Kennedy when she tried to cash a cashier's check at a Bank of America. He also found Moore hiding at 13318 Strathern Street in North Hollywood when he served an arrest warrant on appellant. He found appellant's family living at one residence that he investigated.

DISCUSSION

I. The relevant standard of review, elements of the crime, and accomplice testimony

A. *Standard of review*

Appellant contends that his convictions must be reversed because there was insufficient evidence to sustain his convictions and that there was no evidence corroborating the testimony of his accomplices connecting him to the crimes. We disagree.

“The role of an appellate court in reviewing the sufficiency of the evidence is limited. The court must ‘review the whole record in the light most favorable to the judgment below to determine whether it discloses substantial evidence—that is, evidence which is reasonable, credible, and of solid value—such that a reasonable trier of fact could find the defendant guilty beyond a reasonable doubt.’ [Citations.]” (*People v. Ceja, supra*, 4 Cal.4th at pp. 1138-1139.) We do not reweigh the evidence; even if the circumstances “might reasonably be reconciled with a contrary finding[, this] would not warrant reversal of the judgment.” (*People v. Proctor* (1992) 4 Cal.4th 499, 529.)

B. Elements of identity theft

Section 530.5 provides: “Every person who willfully obtains personal identifying information, as defined in subdivision (b) of Section 530.55, of another person, and uses that information for any unlawful purpose, including to obtain, or attempt to obtain, credit, goods, services, real property, or medical information without the consent of that person, is guilty of a public offense” Thus, the elements of identity theft are that: (1) the defendant must willfully obtain personal identifying information of another person, and (2) the defendant must use the identifying information for an unlawful purpose without the person’s consent. (*People v. Tillotson* (2007) 157 Cal.App.4th 517, 533.)

C. Elements of grand theft

As relevant here, section 484, subdivision (a) provides: “Every person who shall . . . knowingly and designedly, by any false or fraudulent representation or pretense, defraud any other person of money, labor or real or personal property . . . is guilty of theft.” Section 487, subdivision (a) defines grand theft as theft committed when the value of the property taken exceeds \$400.

The elements of theft by false pretenses are: ““(1) that the defendant made a false pretense or representation, (2) . . . with the intent to defraud the owner of his property, and (3) that the owner was in fact defrauded in that he parted with his property in reliance upon the representation.”” (*People v. Whight* (1995) 36 Cal.App.4th 1143, 1151.)

D. Accomplice liability and testimony

Section 1111 provides: “A conviction cannot be had upon the testimony of an accomplice unless it be corroborated by such other evidence as shall tend to connect the defendant with the commission of the offense; and the corroboration is not sufficient if it merely shows the commission of the offense or the circumstances thereof. [¶] An accomplice is hereby defined as one who is liable to prosecution for the identical offense charged against the defendant on trial in the cause in which the testimony of the accomplice is given.”

“The corroborating evidence may be circumstantial or slight and entitled to little consideration when standing alone, so long as it tends to implicate the defendant by relating to an act that is an element of the crime.” (*People v. Vu* (2006) 143 Cal.App.4th 1009, 1021-1022.) The prosecution need not corroborate every fact on which the accomplice testifies or every element of the charged offense. (*Ibid.*) The corroborative evidence is sufficient if it “tends to connect defendant with the crime in a way that may reasonably satisfy a jury that the accomplice is telling the truth.” (*People v. Narvaez* (2002) 104 Cal.App.4th 1295, 1303.)

II. Sufficient evidence supported appellant’s convictions

Count 2—Identity theft of Odis Gentry involving 4419 Don Miguel Drive

Appellant asserts that Bernhisel, Monica Hawkins (Hawkins), and Kennedy were accomplices to appellant’s crimes, but urges that aside from the testimony of these accomplices, no independent evidence showed that appellant willfully obtained personal identifying information of Odis Gentry (Gentry), used the identifying information for an unlawful purpose without his consent, or obtained proceeds from the fraudulent real estate transaction. We disagree.

Bernhisel testified that Jeknavorian told her that he was acquiring a property located at 4419 Don Miguel Drive and that she was to process the loan on behalf of Gentry as the straw buyer. Bernhisel and Burnett prepared the loan application using On Call Realty and Valleywide Realty Escrow, which were dummy corporations.

In addition to the accomplice testimony above, independent evidence existed corroborating that appellant willfully obtained personal identifying information of Gentry and used the identifying information for an unlawful purpose without his consent. The evidence showed that Gentry was not involved in the purchase of the residence on Don Miguel Drive; that Gentry’s identity was stolen when he gave his social security number to a friend who had a connection with appellant; that the owner of the house on Don Miguel Drive was the victim of a fraud; and that a friend of appellant lent appellant money for the real estate transfer at issue. Gentry testified that in 2000 he did not attempt

to purchase a residence on Don Miguel Drive or on Hargrave Street. However, he gave his social security number to a long time friend, Sharon Presley (Presley), to help her daughter purchase a home. Presley did not ask Gentry to sign loan application forms. At trial, when shown a loan application form with his social security number, employment history, and his signature, Gentry testified that the social security number was correct, but the other information was false and his signature was forged.

Presley² testified that she lived with her cousin McClain,³ between 2000 and 2002. Presley met appellant twice through McClain, who told her appellant could assist her daughter in buying a house. Upon McClain's request, Gentry provided information to her by facsimile in order to assist Presley's daughter with the loan. Presley's daughter did not ultimately buy a house.

Duane Martin testified that he lent appellant \$100,000 in the year 2000, authorizing his business manager to wire funds at appellant's direction. The wire transfer was documented as part of the sales transaction of the 4419 Don Miguel residence. The balance of the funds went to the Valleywide Realty Escrow account, documented in an escrow instruction letter. Cheryl Wallace, custodian of records for Bank of America, testified that in 2000, appellant and Tamara opened an account for Valleywide Realty Escrow, at the Topanga Canyon Ventura Bank of America office and that Tamara subsequently opened other accounts by herself in the name of Starr Realty and Ideal Realty. Appellant subsequently cashed checks drawn on the Valleywide Realty Escrow account. The Commonwealth Title Company file for the sale of 4419 Don Miguel Drive from Clay referenced On Call Escrow, and the name Debra, which was an alias used by Bernhisel.

2 Presley was arrested but the charges were dropped.

3 The parties stipulated that McClain was a fugitive in the current case.

Monson, the niece of Clay, testified that Clay had owned the property located at 4419 Don Miguel Drive since 1978. At Clay's request, Catrice reviewed a grant deed and bankruptcy filing he had received in the mail and realized that Clay's home had gone into default, someone had filed a bankruptcy petition in his name, and title to the property had been transferred to another person. She contacted a legal aid organization which restored title to Clay.

Accordingly, the evidence was sufficient to corroborate the testimony of Bernhisel.

III. Count 3, grand theft of Flagstar Bank and count 4, identity theft of Gentry involving 407 East Hargrave Street

Appellant denies that he was involved with fraudulent transactions using Troy Wilkinson's (Wilkinson) name and Gentry's identity. He claims there is no evidence corroborating Bernhisel's testimony that he knew of the fraudulent transactions involving Wilkinson or that he possessed details of Gentry's identity. We conclude that there was independent evidence that appellant committed grand theft of Flagstar Bank and identity theft of Gentry.

Bernhisel testified that Gentry was "the straw buyer" in a false loan application submitted to Flagstar Bank for the purchase of property at 407 East Hargrave Street. Jose Zertuche (Zertuche) provided false employment information, false pay stubs, and a false W-2 form to Flagstar Bank. Appellant offered to buy the house for \$150,000, but secured funding for \$210,000 by using Gentry's identification and falsified information. Only \$39,106 was distributed to Dawn Strozier's (Strozier) account, while \$52,917 was disbursed to Bel Air Properties and Investments, a company that appellant owned. Bernhisel testified that she used On Call Realty for the transaction, and that she used the name "Robert Burns" as a notary.

Corroborating evidence connected appellant with the crimes against Flagstar Bank and Gentry. Gentry testified that in 2000 he did not attempt to purchase a residence on Hargrave Street. Wilkinson was appellant's friend. Wilkinson and his fiancée, Strozier, helped his mother, June Hamilton (Hamilton), the owner of the property, sell the property

to appellant. Strozier testified that appellant agreed to buy Hamilton's house for \$150,000, and chose On Call Escrow. When Strozier received loan documents from the title company, she noticed that a "Robert Burns" had notarized the documents, and that a loan had been taken out for \$210,000, and the borrower was Gentry.

The record contains an escrow instruction from On Call Realty directing sums to be deposited to Monarch Escrow and Strozier's account in the total amount of \$150,000. Remaining funds were directed to be deposited to Bel Air Properties and Investments, a company owned by appellant. Documentary evidence shows a disbursement in the sum of \$52,917.54 to Bel Air Properties and Investments. The record also contains exhibits showing the buyer/borrower for 407 East Hargrave was Gentry, and the lender was Flagstar Bank.

We are satisfied that the evidence was sufficient to corroborate the testimony of Bernhisel.

IV. Count 5, grand theft of First Franklin Mortgage and count 6, identity theft of Christopher Turner involving 4937 Escalon Street

Appellant contends that he did not defraud Christopher Turner (Turner) or Elaine and Prentiss Kirk (Kirks) and that independent evidence did not corroborate Bernhisel's, Hawkins' and Kennedy's testimony. We conclude there was independent evidence that appellant committed grand theft of First Franklin Mortgage and identity theft of Turner.

Bernhisel testified that appellant directed her to prepare a false loan application for \$300,000 for the purchase of 4937 Escalon, on behalf of a buyer named Turner and sellers named Kirks. The loan application contained false employment information, false investment information, and false paystubs. Appellant submitted the loan application to American Dream Funding. In connection with this transaction, and at appellant's direction, Bernhisel directed Bank of America to distribute \$182,224.16 to Ideal Realty and Starr Realty. She instructed Chicago Title to disburse \$181,224.16 to Ideal Realty and the same amount to Starr Realty. Kennedy, also known as Mesha Kennedy, met appellant through her sister Moore. On December 10, 2000, at appellant's direction,

Kennedy opened a checking account at a Bank of America in Northridge. He wrote out a check to her in the amount of \$175,000, from the monies wired to Ideal Realty and Starr Realty from Bank of America. She then obtained 10 cashier's checks for \$10,000 each. She cashed three of the checks and gave the proceeds to appellant. The next day, she was arrested as she attempted to cash another cashier's check. Hawkins (whom the People dispute was an accomplice), testified that appellant directed her to cash a \$170,000 check and obtain cashier's checks, which she cashed and gave to appellant. Appellant paid her \$5,000 for her participation. The money was obtained by appellant from the disbursements from First Franklin Mortgage.

Corroborating evidence established that appellant committed grand theft of First Franklin Mortgage and identity theft of Turner. Turner testified that he never attempted to purchase a residence at 4937 Escalon. When shown a loan application, he testified that his social security number was on the application, but the address, signature, and telephone number were not his.

In 2000, tax returns, utility bills, and receipts were stolen from the residence of the Kirks. The record reflects a grant deed dated November 29, 2000, purportedly signed by the Kirks, in the First Franklin Mortgage loan file. First Franklin Mortgage's records show that it funded two loans, one for \$300,000 and one for \$75,000, after approval of the loan package submitted by American Dream Funding. Later, a representative of First Franklin Mortgage called the Kirks and told them that the mortgage on the house was delinquent and that it would be sold at auction. A police detective informed the Kirks that a deed of trust had been executed which purported to sell their house. Eventually, Turner signed a quitclaim deed deeding the property to Elaine Kirk.

Derek Martin (Martin), a mortgage broker, testified that he had worked with appellant on obtaining mortgages four or five times. In 2000, appellant delivered loan documents for Turner's purchase of the property at 4937 Escalon, which Martin reviewed and sent to lender American Dream Funding. Martin was unable to contact Turner at the address noted on the loan application. The records of First Franklin Mortgage, Bank of

America and Chicago Title Company indicate that Turner was the buyer for a residence at 4937 Escalon Avenue, and that the Kirks were the sellers. The record shows escrow instructions directing disbursements in the amount of \$181,224.16 to Starr Realty and Ideal Realty, for which Tamara was the account holder.

Accordingly, the evidence was sufficient to corroborate accomplice testimony.

V. Count 12, grand theft of GN Mortgage and count 13, identity theft of Troy Wilkinson involving 644 Laveta Terrace

Appellant claims that Bernhisel testified that he was not involved in the grand theft of GN Mortgage or identity theft of Wilkinson in the purchase of the residence on 644 Laveta Terrace. We disagree with appellant's characterization of Bernhisel's testimony and conclude that the evidence was sufficient to establish that appellant committed the crimes in count 12 and count 13.

Bernhisel testified that appellant faxed information about Wilkinson to her for use on a loan application. Bernhisel processed the loan for the residence on 644 Laveta Terrace using the information for Wilkinson provided by appellant.

Wilkinson testified that he had given appellant his personal identifying information in 1999 with respect to purchasing auto insurance or a car, but that he did not attempt to buy 644 Laveta Terrace or sign a loan application for the property. The People introduced into evidence a form that was submitted to GN Mortgage relating to the purchase of 644 Laveta Terrace, with Wilkinson as the buyer. Documentary evidence also shows that Wilkinson was listed as the buyer/borrower for a loan from GN Mortgage for 644 Laveta Terrace. Bernhisel used a broker's name from New American Mortgage, and a false name, as well as a false escrow company. Bernhisel also used false checks to deceive the title company and GN Mortgage into believing that Wilkinson was submitting a deposit. Burnett worked with appellant and Jeknavorian by handling the escrow for their properties. After appellant and Jeknavorian purchased a property, they used a "straw buyer" to fraudulently sell the same property a second time, for which

Burnett would handle the escrow. Burnett directed the proceeds of the transactions for 644 Laveta Terrace to appellant and Jeknavorian's companies.

We conclude the evidence was sufficient to support the trial court's finding that appellant committed grand theft of GN Mortgage and identity theft of Wilkinson involving 644 Laveta Terrace.

VI. Count 17, grand theft of IndyMac Bank and count 18, identity theft of Wanda Needham involving 11250 Laurie Drive

Appellant contends that there is no evidence independent of Bernhisel's testimony that corroborates his involvement with the grand theft of IndyMac Bank and identity theft of Wanda Needham (Needham) involving 11250 Laurie Drive. We disagree.

Bernhisel testified that there were two purchases of the property at 11250 Laurie Drive. The first transaction involved a fictitious buyer named Samuel Hains (Hains). Jeknavorian used a post office box for Hains's address. Appellant gave Bernhisel Needham's name as the "straw buyer" for the second purchase of 11250 Laurie Drive. He also provided Needham's social security number and other personal information. Working with Lauri Lampkin, who submitted a handwritten loan application on behalf of Needham, Bernhisel secured a loan from IndyMac Bank.

Corroborating evidence established that appellant committed grand theft of IndyMac Bank and identity theft of Needham involving 11250 Laurie Drive. The parties stipulated that Needham knew nothing about the transaction involving 11250 Laurie Drive, did not give anyone permission to use her personal identifying information, and that Needham's social security number was used on the loan application. Documentary evidence shows that Needham was the buyer/borrower for the property on 11250 Laurie Drive, and that IndyMac was the lender. The People introduced into evidence a check drawn on the account of PMR Property Management, made out to Stone Ridge Escrow, in the amount of \$1,010, and signed by appellant. The People also introduced into evidence a loan file from IndyMac Bank for 11250 Laurie Drive, and records for seven deposits to PMR Property Management and Bel Air Properties and Investments for

amounts ranging from \$4,607 to \$20,000. These checks were used in the real estate transactions involving 11250 Laurie Drive. And, according to Presley, appellant visited McClain at 11250 Laurie Drive.

Also, Detective Spathopoulos testified that Hains was the listed purchaser of the 11250 Laurie Drive residence, but that he was unable to locate any such person at the given telephone numbers, home addresses, or work addresses. He believed that Hains' identity was completely fabricated. When Detective Spathopoulos investigated the home address given for Needham, Kennedy answered the door, and Moore was hiding in a closet.

We find the evidence sufficient to corroborate the testimony of Bernhisel.

VII. Count 19, grand theft of Downey Savings Bank and count 20, identity theft of Needham involving 1030 Box Canyon

Appellant contends that the evidence was insufficient to show that appellant committed grand theft of Downey Savings Bank and identity theft of Needham involving 1030 Box Canyon. We disagree.

Bernhisel testified that appellant gave her Needham's information to be used in the loan application for the purchase of 1030 Box Canyon, which eventually went into foreclosure. The parties stipulated that Needham knew nothing about the transaction involving 1030 Box Canyon, did not give anyone permission to use her personal identifying information, and that Needham's social security number was used on the loan application. Documentary evidence shows that Needham was the buyer/borrower for property located at 1030 Box Canyon, and that the lender was Downey Savings Bank. Bernhisel had implemented the previous sale of the property from Richard Artie, a friend of Jeknavorian, to Nicholas Turley. She testified that she prepared false receipts from Needham and Wescom Credit Union for the escrow process relating to the loan submitted to Downey Savings Bank.

In 2002, Detective Spathopoulos went to 1030 Box Canyon to execute an arrest warrant on appellant. Appellant was not there at the time, but Detective Spathopoulos found appellant's wife and daughter living at the residence.

Here also, the evidence was sufficient to show that appellant committed grand theft of Downey Savings Bank and identity theft of Needham involving 1030 Box Canyon.

VIII. Count 27, grand theft of Long Beach Mortgage and count 28, identity theft of Nora Kalandjian involving 11689 Picturesque Drive

Appellant contends that the evidence was insufficient to show that appellant committed grand theft of Long Beach Mortgage and identity theft of Nora Kalandjian (Kalandjian) involving 11689 Picturesque Drive. We disagree.

Bernhisel testified that appellant provided her with Kalandjian's information for a loan application for the purchase of 11689 Picturesque Drive. Kalandjian testified that she had not purchased the residence at 11689 Picturesque Drive, that the social security number on the loan application was correct, but that the address and phone numbers were not correct. Documentary evidence shows that Kalandjian was the buyer/borrower for property located at 11689 Picturesque Drive and the lender was Long Beach Mortgage. Kalandjian filed a report with Detective Spathopoulos. McClain had previously handled a refinance for Kalandjian, and had all her personal information, including her social security number and driver's license. Kalandjian called McClain to complain that her personal information had been used in a false transaction. After that phone call, McClain disconnected her telephone numbers, and Kalandjian never spoke to her again. Presley testified that she lived with her cousin McClain, between 2000 and 2002 and that she met appellant twice through McClain.

The evidence was sufficient to support the trial court's finding that appellant committed grand theft of Long Beach Mortgage and identity theft of Kalandjian involving 11689 Picturesque Drive.

DISPOSITION

The judgment is affirmed.

NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS.

_____, J.
DOI TODD

We concur:

_____, P. J.
BOREN

_____, J.
ASHMANN-GERST